

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ERNESTO BODON, KEVIN CURRY
& DONNA ANNUNZIATO, *individually*
and on behalf of other similarly situated persons,

Plaintiffs,

-against-

DOMINO’S PIZZA, LLC.,
Defendant.

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**ORDER ADOPTING REPORT
AND RECOMMENDATION**

09-cv-2941 (SLT) (RLM)

TOWNES, United States District Judge,

The parties in this action, plaintiffs Kevin Curry and Donna Annunziato (collectively “plaintiffs”) and defendant Domino’s Pizza, LLC (“Domino’s”), agreed to settle this diversity class action, however the parties were unable to agree on attorney’s fees. This Court approved the class settlement and referred the fee dispute to Magistrate Judge Roanne L. Mann. Currently before the Court is Judge Mann’s thorough and well-reasoned report and recommendation (R&R), to which Domino’s has submitted no objections.

A district court judge may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. *See* 28 U.S.C. § 636(b)(1). Within fourteen days of service of the R&R, any party may file written objections to the magistrate judge’s report. *See id.* Upon *de novo* review of those portions of the record to which objections were made, the district court judge may affirm or reject the R&R. *See id.* The Court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of the R&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition,

failure to file timely objections may waive the right to appeal this Court's Order. *See* 28 U.S.C. § 636(b)(1); *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

In this case, in the R&R, Judge Mann reviewed recent precedent on methods of calculating fees and determined that rather than employ a percentage-of-the-fund method, it would be more appropriate, under the circumstances of this case, to calculate fees using the modified lodestar/"presumptively reasonable" method generally employed by courts in this Circuit. Judge Mann then applied that method to calculate the award, ultimately recommending that this Court grant in part and deny in part plaintiffs' counsel's fee application and award \$551,627.50 in attorney's fees and \$22,345.42 in costs, for a total award of \$573,972.92. Objections to the R&R were due by June 22, 2015. No objections were filed with this Court. Accordingly, this Court adopts and affirms the R&R. **Plaintiffs are awarded \$551,627.50 in attorney's fees and \$22,345.42 in costs, for a total award of \$573,972.92.**

SO ORDERED.

/s/ Sandra L. Townes
SANDRA L. TOWNES
UNITED STATES DISTRICT JUDGE

Dated: June 23, 2015
Brooklyn, New York